

September 21, 2009

UNITED STATES COURT OF APPEALS

Elisabeth A. Shumaker
Clerk of Court

FOR THE TENTH CIRCUIT

ROCKLAND D. JOHNSON,

Petitioner - Appellant,

v.

MARTY SIRMONS,

Respondent - Appellee.

No. 09-5126
(D.C. No. 4-04-CV-00724-JHP-PJC)
(N.D. Okla.)

ORDER

Before **TACHA**, **KELLY**, and **HOLMES**, Circuit Judges.

Mr. Johnson is appealing from the district court's judgment entered on March 23, 2009, denying his petition for writ of habeas corpus. The court orders that this appeal be dismissed as untimely.

Mr. Johnson's notice of appeal was due within 30 days of the entry of the district court's judgment - on or before April 22, 2009. *See Fed. R. App. P.* 4(a)(1)(A) (notice of appeal due within 30 days). It was not filed until September 2, 2009. This court cannot extend the time for filing a notice of appeal. *See Fed. R. App. P.* 4 (a)(5).

Because the notice of appeal was untimely, this court lacks jurisdiction to

consider this appeal. *Bowles v. Russell*, 127 S. Ct. 2360 (2007).

APPEAL DISMISSED.

Entered for the Court,
ELISABETH SHUMAKER, Clerk of Court

by:

CVC
Christine Van Coney
Counsel to the Clerk

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
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Elisabeth A. Shumaker
Clerk of Court

September 21, 2009

Douglas E. Cressler
Chief Deputy Clerk

Rockland D. Johnson
Davis Correctional Facility
6888 East 133rd Road
Holdenville, OK 74848-9033
#419056

RE: 09-5126, Johnson v. Sirmons
District docket: 4:04-CV-00724-JHP-PJC

Dear Mr. Johnson:

Enclosed is a copy of a final order dismissing the appeal entered today in the captioned case.

Please contact this office if you have questions.

Sincerely,



Elisabeth A. Shumaker
Clerk of the Court

cc: Diane L. Slayton

EAS/ao